

Regular Meeting of January 11, 2011  
One Twin Pines Lane, Belmont, CA

**REGULAR MEETING**  
**CALL TO ORDER 7:40 P.M.**

**ROLL CALL**

COUNCILMEMBERS PRESENT: Feierbach, Warden, Lieberman, Wozniak, Braunstein

COUNCILMEMBERS ABSENT: None

Staff Present: City Manager Scoles, City Attorney Zafferano, Finance Director Fil, Human Resources Director Dino, Police Chief Mattei, Community Development Director de Melo, Parks and Recreation Director Gervais, City Treasurer Violet, Deputy Finance Director Lazzari, Associate Engineer Palatnik, City Clerk Cook.

**PLEDGE OF ALLEGIANCE**

Led by Mayor Feierbach

**REPORT FROM CLOSED SESSION (From December 20, 2010 and January 3, 2011)**

City Attorney Zafferano stated that direction was given but no action taken on the Closed Sessions held on December 20, 2010 and January 3, 2011.

**PUBLIC COMMENTS AND ANNOUNCEMENTS**

**John Violet**, Friends of the Belmont Library, outlined upcoming events to be held at the Library.

**COUNCIL MEMBER COMMENTS AND ANNOUNCEMENTS**

Councilmember Braunstein spoke regarding the recent fire in an apartment building on Carlmont Drive. He complimented the Belmont-San Carlos Fire Department, the Red Cross, as well as city staff that opened the Senior and Community Center as a shelter for displaced residents.

Councilmember Lieberman commented that it was fortunate the ladder truck was available, and stated it is an important piece of equipment in a fire such as this.

City Manager Scoles provided an update regarding the fire. He stated that 25 residents have been displaced, and there was a good effort made by the fire department. He noted that Assemblymember Hill contacted the City to offer assistance.

Mayor Feierbach announced that recruitment was under way for the upcoming commission openings. She also announced a meeting regarding high speed rail to be held on January 12<sup>th</sup>.

Mayor Feierbach stated that tonight's meeting would be adjourned in memory of former City Councilmember and Mayor Nancy Levitt, who passed away recently.

### **AGENDA AMENDMENTS**

Councilmember Warden requested the removal of Consent Items 4-E (Resolution Electing to Become Subject to the Uniform Public Construction Cost Accounting Procedures) and 4-F (Resolution Authorizing a Professional Services Agreement with MuniServices, LLC to Perform a Review of the City's Exclusive Franchise Solid Waste Hauler Franchise Payments for an Amount Not to Exceed \$23,000) for separate consideration.

Councilmember Wozniak requested the removal of Consent Item 4-G (Resolution Appointing Kathleen A. Kane of Aaronson, Dickerson, Cohn, & Lanzone as Interim City Attorney) for comment.

### **ITEMS APPROVED ON CONSENT CALENDAR**

**Approval of** Minutes of Special and Regular Meeting of December 14, 2010, Special Meeting (Closed Session) of December 22, 2010, and Special Meeting (Closed Session) of January 3, 2011

**Motion to Receive** Monthly Financial Reports

**Approval of** Resolution 10306 Approving Supplier Agreement with Poplar Creek Grill for Senior Nutrition Program

**Approval of** Resolution 10307 Authorizing the City of Belmont to join a Countywide Sub-Region, to Locally Administer ABAG's Regional Housing Needs Allocation (RHNA) Process

**ACTION:** On a motion by Councilmember Warden, seconded by Councilmember Braunstein, the Consent Agenda was unanimously approved, as amended, by a show of hands.

### **ITEMS REMOVED FROM CONSENT CALENDAR FOR SEPARATE CONSIDERATION**

#### **Resolution Electing to Become Subject to the Uniform Public Construction Cost Accounting Procedures**

Councilmember Warden questioned how the State purchase limits related to Belmont's more stringent limit of \$5,000. Finance Director Fil explained that the resolution addresses the State regulations, and the State provides detailed steps to follow. He noted that the City still requires three bids, but this action will not require the publication of a Notice to Bidders, nor are sealed bids required. He clarified that this resolution does not change Belmont's \$5,000 purchasing threshold.

**ACTION:** On a motion by Councilmember Warden, seconded by Councilmember Braunstein, Resolution 10308 Electing to Become Subject to the Uniform Public Construction Cost Accounting Procedures was unanimously approved by a show of hands.

#### **Resolution Authorizing a Professional Services Agreement with MuniServices, LLC to Perform a Review of the City's Exclusive Franchise Solid Waste Hauler Franchise Payments for an Amount Not to Exceed \$23,000**

Councilmember Warden requested clarification regarding the purpose of the expenditure. Finance Director Fil explained that the objective is to ensure that Belmont is obligated to pay the lowest amount under the former solid waste franchise agreement for the balance account. He noted that savings are likely to be realized through this method.

**ACTION:** On a motion by Councilmember Warden, seconded by Councilmember Braunstein, Resolution 10309 Authorizing a Professional Services Agreement with MuniServices, LLC to Perform a Review of the City's Exclusive Franchise Solid Waste Hauler Franchise Payments for an Amount Not to Exceed \$23,000 was unanimously approved by a show of hands.

**Resolution Appointing Kathleen A. Kane of Aaronson, Dickerson, Cohn, & Lanzone as Interim City Attorney**

Councilmember Wozniak noted that City Attorney Zafferano would be leaving the City at the end of the month, and that Kathleen Kane would be taking over as Interim City Attorney.

**ACTION:** On a motion by Councilmember Warden, seconded by Councilmember Braunstein, Resolution 10310 Appointing Kathleen A. Kane of Aaronson, Dickerson, Cohn, & Lanzone as Interim City Attorney was unanimously approved by a show of hands.

**HEARINGS**

**Resolution to Approve a General Plan Amendment to the Adopted 2007-2014 Housing Element and Resolution to Adopt a Negative Declaration of Environmental Impacts**

Community Development Director de Melo noted that the Housing Element was adopted in July of 2010. It was submitted to the State, which requested minor language changes to address emergency shelters.

Mayor Feierbach opened the Public Hearing. No one came forward to speak.

**ACTION:** On a motion by Councilmember Warden, seconded by Councilmember Braunstein, the Public Hearing was unanimously closed.

**ACTION:** On a motion by Councilmember Warden, seconded by Councilmember Wozniak, Resolution 10311 Approving a General Plan Amendment to the Adopted 2007-2014 Housing Element was unanimously approved by a show of hands.

**ACTION:** On a motion by Councilmember Wozniak, seconded by Councilmember Warden, Resolution 10312 Adopting a Negative Declaration of Environmental Impacts Related to the 2007-2014 Housing Element, Pursuant to the California Environmental Quality Act was unanimously approved by a show of hands.

**OLD BUSINESS**

**Consideration of an Appeal of the Planning Commission Decision Approving a Conditional Use Permit Amendment for the Koret Athletic Field for Notre Dame De Namur University (NDNU) At 1500 Ralston Avenue (Continued from October 26, November 9, and December 14, 2010) (Requires Ex Parte Contacts Disclosure)**

Councilmember Lieberman stated that because he lives within 300 feet of the Notre Dame de Namur University (NDNU) property, he would need to recuse himself from this matter. He stepped off the dais and out of the room.

Councilmember Wozniak stated that since the meeting of December 14<sup>th</sup>, she has had contact with Evelyn Seely, Mrs. Hughes, and Tom Snider. Councilmember Braunstein stated that he spoke with Alan Sarver and Tom Snider. Councilmember Warden stated he spoke with Tom Snider. Mayor Feierbach stated she spoke with Risa Horowitz, Evelyn Seely, Tom Snider and Greg Snow.

Community Development Director de Melo stated that the Conditions of Use have been revised based on direction given at the December 14<sup>th</sup> meeting. He described landscaping issues that will be addressed.

Discussion ensued regarding the allowed days and hours of use of Koret Field.

In response to Councilmember Braunstein, **Josh Doody**, NDNU Athletic Director, clarified that a 6:30 p.m. stopping time will be problematic in the fall and spring.

Councilmember Braunstein expressed support for a 7:30 p.m. ending time. Councilmember Warden expressed support for 7:00 p.m.

**Judith Greig**, NDNU President, stated that athletic practices do not begin before 3:30 p.m., and there is a need for three teams to be able to practice.

Mayor Feierbach expressed support for a 7:00 p.m. ending time, and she noted that this can be reviewed and modified in the future.

Council concurred with the proposed Saturday and Sunday field use times.

Discussion ensued regarding holidays.

Councilmember Warden recommended allowing field use for a half day on holidays.

Mayor Feierbach recommended leaving the holiday schedule as proposed.

Councilmember Braunstein expressed his dissent regarding the proposed holiday schedule.

Discussion ensued regarding the number of dark Sundays per month.

Councilmember Wozniak expressed support for one dark Sunday per month, pending a one-year review for youth sports.

Councilmember Warden expressed support for only one dark Sunday per month during the fall and

spring seasons, due to the youth sports schedule.

**Mark Hasloop**, on behalf of NDNU, stated that the University is unable to evaluate the benefit of the proposed Sunday schedule. He stated that the City Council is micromanaging this Conditional Use Permit. He noted that sports camps operate seven days per week.

Councilmember Braunstein noted that the purpose of the discussion is to formulate a consensus agreement. The City Council is trying to honor concerns of residents. There is a need to improve the level of discourse and to find common ground. He would like clarification as to whether the University can function under the proposed regulations.

Councilmember Warden stated that the City Council is trying to be fair to everyone. He commented that the University is an asset to the community, but it has not always been a good neighbor. It stopped communicating with the neighbors and is using the sports groups against the neighbors. He stated he is trying to satisfy everyone.

Councilmember Wozniak stated that there is not likely to be consensus and all needs have to be considered. She commented that she has lost patience with the University.

Councilmember Braunstein clarified that Belmont United Soccer Club approached the University regarding using its field, not the other way around.

**ACTION:** On a vote of 3-1 (Braunstein no, Lieberman recused), the City Council approved six months of two dark Sundays per month (June through August, December through February), and six months of one dark Sunday per month (March through May, September through November).

Council concurred with the proposed use of the field by the sports groups, and the proposed Special Events schedule.

Discussion ensued regarding amplified sound.

Councilmember Warden expressed support for the use of the air horn only during lacrosse games.

Community Development Director de Melo outlined the NCAA rules regarding air horns and other signals.

Council concurred to approve the use of air horns only when specifically required during games by NCAA rules. Council also concurred that all activities, including amplified sound, must comply with Belmont's noise ordinance.

Discussion ensued regarding other conditions. Council concurred with conditions two, three, and four, which requires NDNU to acknowledge receipt of the conditions, and addresses landscaping and indemnification.

Discussion ensued regarding condition number five, the 2005 landscape plan. Community Development Director de Melo stated that the conditions of the landscape plan were met by 2007, and recent issues are being addressed.

Discussion ensued regarding condition number six relative to a one-year review.

Councilmember Warden suggested removing the condition, and noted that NDNU can apply for an amendment if desired. He questioned whether the City could revoke specific conditions.

Mayor Feierbach expressed support for leaving the one-year review in place.

City Attorney Zafferano outlined options that could be implemented at the time of the one-year review, including an amendment of certain conditions.

Councilmember Warden stated he does not want to capriciously modify conditions. He noted that the City has never revoked a CUP.

Councilmember Wozniak expressed support for this condition. She cited noncompliance issues in the past with the existing CUP. She noted the review would give the City Council the ability to modify or revoke the CUP. She further noted that this condition was not included in the 2005 CUP, the CUP was not reviewed, and problems festered.

Discussion ensued regarding the language addressing the age limit for youth sports camps.

Mayor Feierbach expressed support for age 25 being the upper end maximum.

Councilmember Wozniak expressed support for setting age 19 as the maximum. She stated that college students are not youths.

Councilmember Warden expressed support for collegiate games to age 23.

In response to Council questions, **Mark Hasloop**, on behalf of NDNU, stated that it is difficult to define college age. He noted that this issue is related to land use.

**ACTION:** Council voted 2-2 (Warden, Braunstein no) to setting the upper age limit at 19. Motion failed for lack of three votes.

**Marc Hasloop** recommended removing the term youth and calling them sports camps. He stated that age does not affect noise.

City Attorney Zafferano recommended calling them student sports camps without identifying the age.

Councilmember Wozniak expressed concern regarding the trigger for a CEQA review if camps are allowed for players over the age of 19. She stated that it was her understanding that the existing camps were only offered to elementary and high school students.

Council concurred with conditions nine and ten related to the prohibition of lights, and the installation of signage on the field outlining the allowed hours.

Discussion ensued regarding the proposed requirement of a quarterly meeting with the neighbors.

Councilmembers Braunstein and Warden recommended not mandating this condition.

**Judith Greig**, NDNU President, expressed her desire to host meetings, but noted that she preferred it not be conditioned in the CUP.

Councilmember Warden stated that this matter could be reviewed at the one-year review period.

**ACTION**: On a vote of 3-1 (Feierbach no, Lieberman recused) to remove the condition of requiring outreach meetings with the neighborhood.

Discussion ensued regarding condition 12 related to monitoring.

Councilmember Wozniak expressed support for this condition as an enforcement tool. She recommended maintaining a log. She noted that the 2005 CUP was not well enforced. She expressed support for what NDNU does for the community, but she does not support how the field use has been communicated.

City Attorney Zafferano clarified that a revocation or modification of conditions can only be made by the City Council. He suggested not specifying the number of violations that would trigger a revocation. He further clarified that revocation requires a hearing.

Police Chief Mattei stated that a log of calls and their disposition can be provided on a regular basis.

Council concurred to have condition 12 remain as stated.

Discussion ensued regarding condition 13 requiring the posting of the field schedule on the web.

Councilmember Wozniak expressed support that best efforts would be made to post the information as it is known. She also expressed support for providing an historic log for past use. She acknowledged that last-minute changes might not be posted.

**Richard Rossi**, on behalf of NDNU, clarified that there is no weekend monitoring of the University's website. He noted that the webmaster depends on the coaches to communicate the most

updated information.

Council concurred to add verbiage to condition 13 to require an historic log twice annually.

Mayor Feierbach stated that comments by NDNU and the sports groups have been allowed, and she would like to allow someone on behalf of the co-appellants to be able to speak.

City Attorney Zafferano clarified that specific questions have been posed to NDNU and the sports groups for clarification purposes. He recommended not allowing public testimony, as the Public Hearing has been closed.

In response to a question from Mayor Feierbach, **Richard Hughes**, co-appellant, clarified that there is less noise from younger kids than from older kids and adults.

**RECESS: 9:35 P.M.**  
**RECONVENE: 9:55 P.M.**

Discussion continued regarding condition 8 related to sports camps.

City Attorney Zafferano clarified that the 2005 CUP did not define youth, which is what created this issue.

Councilmember Wozniak expressed support for defining youth as high school age or younger.

Councilmember Braunstein stated that he is not concerned regarding the age distinction.

Councilmember Warden stated that he is unable to correlate noise with youth, and he recommended removing the condition.

**Ray Davis**, co-appellant, stated that there is a difference in noise depending on age of the player, especially with regard to men's lacrosse.

City Attorney Zafferano cautioned against including any gender definition.

**ACTION:** Councilmember Wozniak made a motion to approve a Resolution Approving a Conditional Use Permit Amendment for the Koret Athletic Field, said motion to modify condition number 8 that would state that the youth camps would be approved for high school students or younger.

**ACTION:** Councilmember Braunstein made a substitute motion, seconded by Councilmember Warden, to remove the last line of condition 8 which reads, "for purposes of this condition, youth is defined as 25 years old or younger". This motion died for a lack of three votes (Councilmembers Wozniak and Mayor Feierbach no, Lieberman recused).

**ACTION:** On the original motion, seconded by Mayor Feierbach, Resolution 10313 Approving a Conditional Use Permit Amendment for the Koret Athletic Field for Notre Dame De Namur University (NDNU) At 1500 Ralston Avenue was approved by a vote of 3-1 (Braunstein no, Lieberman recused), said motion to amend Condition 8 to define youth as high school students or younger for purposes of youth sports camps.

Councilmember Wozniak stated that there is a need to install turf at the Belmont Sports Complex. She outlined options on how to raise funds for this purpose. She noted that it is difficult to please everyone, and the City Council needs to consider all sides of an issue. She thanked all who attended the meetings and who communicated with the City Council regarding this matter.

Councilmember Warden stated that the City Council will review this CUP. He noted that it did its best to address all concerns.

Mayor Feierbach stated that she supports the University. She noted this was the most difficult decision she has had to make in 15 years.

Councilmember Braunstein recommended that the University make use of the neighborhood outreach meetings.

**RECESS: 10:22 P.M.**

**RECONVENE: 10:30 P.M.**

Councilmember Lieberman returned to the dais.

**MEETING EXTENSION:** At this time, being 10:30 P.M. on a motion by Councilmember Wozniak, seconded by Councilmember Warden, the meeting was unanimously extended by a show of hands.

### **Reconvene Special Joint Powers Financing Authority Meeting**

### **NEW BUSINESS**

#### **Resolution Authorizing Sewer Collection Bonds**

Finance Director Fil noted that there are two proposed bonds, one for capital and one for sewer collection. He noted that savings could be realized if the two bonds are issued together. He explained that the 2011 sewer rate increased was based on the proposed bond issuance, and that each project would be approved by the City Council. He noted that this is a good time to place bonds on the market due to favorable conditions. He clarified that both the Finance Commission Subcommittee and full Commission recommended approval of the bonds. He stated that \$3 million remains from the previous bond, and he outlined the areas that would be addressed with future projects. He explained that the average annual cost for the bond for each taxpayer is approximately \$50.

In response to Councilmember Warden, Finance Director Fil explained that the City has been issuing sewer bonds approximately every five years. He explained that bonds retire after 30 years, and there is unlikely to be more than six outstanding bonds at any one time. He clarified that the rate increase includes maintenance and operations, not just to pay off debt.

Councilmember Lieberman stated bond financing is a benefit for new residents.

Discussion ensued regarding debt service of bonds.

Councilmember Warden stated that sewer rates are proposed to rise six to eight percent every year. He was told in 2001 that there would only be three bonds, and now it is proposed to issue bonds every five years.

Mayor Feierbach stated that a study session is needed on this matter. She expressed concerns regarding the cost of bond financing to the rate payers. She cannot support the bonds as proposed.

**MEETING EXTENSION:** At this time, being 11:00 P.M. on a motion by Councilmember Wozniak, seconded by Councilmember Lieberman, the meeting was unanimously extended by a show of hands.

Associate Engineer Palatnik explained that the City has only been doing emergency work so that the existing balance can be allocated carefully, and it has been proactive in its approach to projects. She added that other cities have been fined for sewer spills, because repairs have not been addressed. She explained that the recent smoke testing work being performed has helped identify problems, but she noted it depends on how aggressive enforcement is if there are issues.

Co-Acting Public Works Director Gervais stated there is a strong need for the proposed projects.

Councilmember Lieberman stated that the City's infrastructure needs attention, and the money is not being wasted. He expressed support for the bonds, and is concerned about deferring projects due to the potential for sewage spills and fines being levied. He noted it is cheaper to fix things now than later.

Mayor Feierbach noted that there is money available in the fund balance for emergencies.

Councilmembers expressed their support for a study session regarding this matter.

#### **Resolution Authorizing Sewer Treatment Bonds**

This item was continued.

#### **Adjourn Special Joint Powers Financing Authority Meeting**

**COMMISSION, COMMITTEE, AND COUNCIL INTERGOVERNMENTAL**

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## **ASSIGNMENT UPDATES, AND STAFF ITEMS**

### **Verbal report from Councilmembers on Intergovernmental (IGR) and Subcommittee Assignments**

Councilmember Lieberman stated that the Belmont-San Carlos Fire Board Meeting scheduled for January 12<sup>th</sup> would be rescheduled. Councilmember Wozniak noted that the San Carlos members of the Board called the meeting off.

### **Update on High Speed Rail (Verbal)**

Community Development Director de Melo stated that the High Speed Rail Ad Hoc Committee continues to hold meetings. He questioned the need for the ongoing standing agenda item for high speed rail.

Councilmember Wozniak stated that the Peninsula Consortium of Cities is considering reducing its meeting schedule to monthly. She recommended keeping this item on the agenda as a placeholder. She noted that the new Governor is likely to make changes affecting high speed rail.

Council concurred to leave the standing item on the agenda at this time.

### **Verbal Report from City Manager**

City Manager Scoles stated that the Public Works Director recruitment is ongoing. He noted that the alternatives for future fire services would be addressed at the next meeting.

**ADJOURNMENT** at this time, being 11:30 p.m., in memory of former Mayor and Councilmember Nancy Levitt.

**Terri Cook  
City Clerk**

Meeting Tape Recorded and Videotaped  
Audio Recording 777